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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* CATHERINE LIN-HENDEL

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Appeal 2011-006310  
Application 09/577,190  
Technology Center 2100

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*Before* DEBRA K. STEPHENS, JASON V. MORGAN, and JOHN G. NEW, *Administrative Patent Judges.*

STEPHENS, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from a final rejection of claims 1-22 and 29-54. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM-IN-PART.

*Introduction*

According to Appellant, the invention relates to a method and apparatus to browse through the nested categorization structure before committing to invoke a link to call for particular content pages listed under a particular category. (Abstract; Spec.1, ¶[0003]).

STATEMENT OF THE CASE

*Exemplary Claim*

Claim 1 is an exemplary claim and is reproduced below:

1. A system for navigating and browsing electronic media, comprising:  
a device enabling viewing of digitally stored information, the device being configured to display at least portions of a categorization structure for substantially all of a website having a plurality of nested cascading category levels, each category level of the plurality of nested cascading category levels comprising a plurality of category titles of electronic media content stored on at least one storage device, each category title having a selectable link- token to the stored content for said each category title, said each category title also being coupled to a nested subcategory structure of said each category title, the nested subcategory structure of said each category title comprising link-tokens of category titles wherein said each category title and the category titles in the different plurality of category levels are able to be browsed independently of having to select and retrieve the stored

content for any title from the at least one storage device, wherein the categorization structure enables a user viewing content of any category title in the categorization structure to retrieve content of any other category title in the categorization structure using a single retrieval command.

*References*

Gennaro	US 5,742,768	Apr. 21, 1998
Chang	US 6,091,415	Jul. 18, 2000
		(filed Nov. 4, 1997)

*Rejections*

Claims 1-22 and 29-54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gennaro and Chang.

We have only considered those arguments that Appellant actually raised in the Briefs. Arguments Appellant could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii)(2009).

**ISSUE 1**

*35 U.S.C. § 103(a): claims 31-51*

The Examiner rejected claims 1-22 and 29-54 under § 103(a) over the combination of Gennaro and Chang. However, Appellant does not present arguments appealing the rejection of claims 31-51 (*see* Br. 5; Reply Br. 3). Therefore, Appellants have waived their arguments. In light of the record

before us, we are not persuaded of error in the Examiner's findings and conclusions.

Accordingly, the rejection as to claims 31-51 under 35 U.S.C. § 103(a) for obviousness over Gennaro and Chang is affirmed.

## ISSUE 2

### *35 U.S.C. § 103(a): claims 1-22, and 30*

Appellant asserts the invention is not obvious over Gennaro and Chang because the references do not teach or suggest "the categorization structure enables a user viewing content of any category title in the categorization structure to retrieve content of any other category title in the categorization structure using a single retrieval command" as recited in claim 1 (App. Br. 13-17). Specifically, Appellant contends Gennaro does not teach that from a display content of *any title* the user can retrieve the content of *any other* title (App. Br. 14). Instead, Appellant argues Gennaro discloses direct navigation from a top page to lower level pages and not links from one page to other similar level pages or to higher or lower level pages (App. Br. 15). Therefore, according to Appellant, Gennaro does not teach or suggest enabling a user viewing content of any category title in the categorization structure to retrieve content of any other category title in the categorization structure using a single retrieval command (App. Br. 16).

Further, Appellant argues Chang does not teach or suggest opening a lower level subordinate dialog box without first retrieving information of all other subordinate dialog boxes in the same path (*id.*). Appellant additionally

argues Chang does not teach or suggest viewing two subordinate dialog boxes at the same level or in different paths at the same time (*id.*).

*Issue 2:* Has the Examiner erred in finding the combination of Gennaro and Chang would have taught or suggested “the categorization structure enables a user viewing content of any category title in the categorization structure to retrieve content of any other category title in the categorization structure using a single retrieval command” as recited in claim 1?

#### ANALYSIS

The Examiner finds that the Specification and the claim portray accessing directly any other title; however, “the user cannot access any other structure without making several menu selections along another path and may not know or see any title from any other title” as shown in Figures 6a-6e (Ans. 21). We agree with the Examiner that both the cited prior art and the present invention use a mouse to navigate among the levels and to view the titles. However, the Examiner has not shown how Gennaro and Chang, taken alone or in proper combination, teaches or suggests enabling a user viewing content of any category title in the structure to retrieve *content of any other category title* in that structure using a *single retrieval command* as recited in claim 1 and commensurately recited in claim 22.

Similarly, we agree with Appellant that the Examiner has not shown the combination teaches or suggests enabling “the user to retrieve with one single retrieval command any desired content page within the inter-linked

content structure from a display of every other content page” as recited in claim 2.

Accordingly, the Examiner erred in finding the combination of Gennaro and Chang would have taught or suggested the invention as recited in independent claims 1, 2, and 22 and dependent claims 3-21 and 30, not separately argued. Therefore, the Examiner erred in rejecting claims 1-22, and 30 under 35 U.S.C. § 103(a) for obviousness over Gennaro and Chang.

### ISSUE 3

#### *35 U.S.C. § 103(a): claim 29*

We agree with the Examiner that Gennaro teaches or suggests enabling “the user to use a single click to (1) return to any previous web page of the plurality of interlinked web pages” as recited in claim 29. Specifically, Gennaro teaches the user can move the pointer 42 elsewhere in the embedded menu 46 to select and initiate one of the other links (col. 4, ll. 49-51). Gennaro further teaches the embedded menu 46 can have multiple levels of menus accessible through initial menu options (col. 4, ll. 51-53). Therefore, we agree with the Examiner that Gennaro teaches or at least suggests the disputed limitation.

Accordingly, the Examiner did not err in finding the combination of Gennaro and Chang would have taught or suggested the invention as recited in claim 29, not separately argued. Therefore, the Examiner did not err in rejecting claim 29 under 35 U.S.C. § 103(a) for obviousness over Gennaro and Chang.

#### ISSUE 4

##### *35 U.S.C. § 103(a): claims 52-54*

For the reasons set forth above with respect to claim 1, we agree with Appellant that the Examiner has not shown “a user is able to retrieve content of any other web page in the categorization structure by selecting using a single selection gesture” (App. Br. 19-20). Accordingly, the Examiner erred in finding the combination of Gennaro and Chang would have taught or suggested the invention as recited in claim 52 and claims 53 and 54, not separately argued. Therefore, the Examiner erred in rejecting claims 52-54 under 35 U.S.C. § 103(a) for obviousness over Gennaro and Chang.

#### DECISION

The Examiner’s rejection of claims 1-22, 30, and 52-54 under 35 U.S.C. § 103(a) as being unpatentable over Gennaro and Chang is reversed.

The Examiner’s rejection of claims 32-51 under 35 U.S.C. § 103(a) as being unpatentable over Gennaro and Chang is affirmed.

The Examiner’s rejection of claim 29 under 35 U.S.C. § 103(a) as being unpatentable over Gennaro and Chang is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED-IN-PART

Appeal 2011-006310  
Application 09/577,190

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